

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

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**WRIT PETITION NO : 12539 of 1996**

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**DATED: 27-01-2006**

The Cement Corporation of India Ltd.,

rep., by its Manager Electrical,

Erraguntla Cement Factory,  
Cuddapah District.

**..... PETITIONER**

AND

The Andhra Pradesh State Electricity Board,  
Somajiguda, Hyderabad. rep., by its Secretary.

**.....RESPONDENT**

**ORDER:**

Heard the counsel for the petitioner.

No representation on behalf of the respondent.

This petition is filed seeking a writ in the nature of mandamus restraining the respondent from encashing the bank guarantee issued by the petitioner in pursuance of letter

No.C.E. (Comml)/POI/CCI-YGT/489/96 dated 26-06-1996 and for other orders.

Learned counsel for the petitioner raised various contentions and also relied on the observations of the Supreme Court in its judgment dated 08-03-1988 which were extracted in paragraph.5 of the affidavit filed in support of the application and contended that in view of the failure of the respondent to provide necessary infrastructure for supply of 132 KV Distribution Main in the vicinity of the factory of the petitioner the levy and demand of the surcharge is highly improper.

In the counter affidavit of the Superintendent Engineer, Operation, Kadapa, filed on behalf of the respondent, it is alleged that 132 KV lines were ready from 1980 itself and that the failure is on the part of the petitioner and though the petitioner was not a party to the proceedings before the Supreme Court the respondent, considering the representation of the petitioner in respect of the observations made by the Apex Court in W.P.No.17904 of 1998, allowed time to the petitioner to switch over the consumers to higher voltage levels from 01-03-1982 and permitted another twelve months time and decided to levy the surcharge from 01-03-1982 and also informed that 132 KV lines were laid to the factory of the petitioner long back and so, the contention of the petitioner that 132 KV lines were laid in 1987 is not true and since the petitioner did not make the payment demanded it had encashed the bank guarantee on 15-07-2002.

Since the bank guarantee is said to have been encashed as long back as on 15-07-2002 and since the prayer in the petition is to restrain the respondent from encashing the bank guarantee the petition became infructuous and so the Writ Petition is dismissed as infructuous with costs.

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**(C.Y.SOMAYAJULU,J)**

27<sup>th</sup> January, 2006.

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